

PUBLICATION

Employers of Religious Workers Must Report Job Terminations: A Sign of Things to Come for Other Categories?

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In new regulations concerning temporary and permanent religious worker visa categories issued in November 2008, USCIS included a requirement that the employer notify USCIS within 14 days if its employment of a temporary R-1 religious worker ends or goes below the 20 hour per week minimum. USCIS has now posted a web site notice where the notice should be sent (preferably email to CSCR-1EarlyTerminationNotif@dhs.gov) and what it needs to say. Employers of foreign nationals in other classifications should realize that similar rules and arrangements are probably in the works for them.

8 CFR 214.2(r)(14) requires as follows:

Employer obligations. When an R-1 alien is working less than the required number of hours or has been released from or has otherwise terminated employment before the expiration of a period of authorized R-1 stay, the R-1 alien's approved employer must notify DHS within 14 days using procedures set forth in the instructions to the petition or otherwise prescribed by USCIS on the USCIS internet web site at www.uscis.gov.

USCIS has posted [instructions](#) on its website explaining how to provide such notifications. USCIS prefers an email to CSCR-1EarlyTerminationNotif@dhs.gov, but it also provides an address for mailed notifications to the California Service Center, the immigration adjudication center where all religious worker petitions are centralized. The notification should include:

- Reason for the notification or a reason for late notification (if applicable);
- USCIS receipt number of the approved R-1 petition;
- Petitioning employer's information (name, address, telephone number and employer identification number (EIN), if available).
- R-1 beneficiary information (full name, date of birth, country of birth, last known physical address and phone number)

The effect of an employer's notification to USCIS will surely be revocation of the employer's R-1 petition. USCIS might also send the religious worker a notification that he or she is out of status, which will trigger the accrual of "unlawful presence" for purposes of a possible bar on reentry if the worker does not leave the U.S. within 180 days.

A religious worker who is pursuing a change of employers should have the new employer file a petition before the previously approved employer provides the notification. It might even be wise for such a worker and/or new employer to give notice to the same USCIS email address a notification that a new petition has been filed, so that the same people at the USCIS California Service Center who are learning of one employer's termination will know about the new employment. USCIS has not established any formal grace period for filing a new employer's petition, but historically USCIS has exercised discretion to approve new petitions filed within a reasonable time after the end of previous employment. Only time will tell how this will work in the new regime for religious workers.

USCIS has been particularly concerned about fraud and noncompliance concerning religious workers, but fraud concerns extend to H, L, and other classifications as well. Regulations already require L employers to give notice when the qualifying

nature of the arrangements changes, and H employers must give notice to stop the obligation to pay wages. USCIS is exploring with religious workers some ways to tighten its approach to monitoring of compliance with status, and employers in other categories can expect USCIS to issue clearer rules and procedures in the future requiring similar notifications.